

APR 27



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/002,187	12/31/97	HABERMAN	R RIC-96-161

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Due Date  
7-24-00

EXAMINER

VU, T

ART UNIT

PAPER NUMBER

2756

DATE MAILED:

04/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/002,187

Applicant(s)

Hayes et al

Examiner

Thong Vu

Group Art Unit  
2756

☒ Responsive to communication(s) filed on Feb 15, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-29 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Introduction*

1. This office action is in response to Argument filed Feb 15, 2000. Claims 1-29 are pending.

The rejections cited are as state below

### *Response to Amendment*

2. Applicant's argument filed Feb 15, 2000 have been fully considered but they are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-29 are rejected under 35 U.S.C. § 103 as being unpatentable over Pruett et al [5,870,555] in view of Basso et al [5,673,263]

As per claim 1, Pruett et al disclose *A method for establishing a virtual circuit or logical connection from a client to one of a plurality of servers through a network [Fig1], comprising the steps of receiving a request for connection from a client, wherein said request specifies a functional group [col 2 lines 20-60], and wherein said functional group includes a plurality of*

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*servers* or virtual present servers [col 9 line 11], *each capable of servicing said client* [col 1 lines 37-48]; *selecting a server from said functional group* [Fig 5, col 8 lines 5-10]; *and establishing a virtual circuit from said client to said server via said route* [col 6 lines 20-25]. Even though Pruett taught determines whether a network information request should be routed to server 14 or server 16 [Pruett col 3 lines 45-50]. However Pruett did not detail the system *computing a route to said server*. This feature is well-known in ATM or virtual network art, the skilled artisan would have looked to the ATM network art for further details and have found Basso et al teaching. Basso et al taught an ATM system having routing-computing responsibilities using IP address for accessing the target system [Basso col 6 lines 8-32]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the route computing of the ATM system as taught by Basso into Pruett system in order to utilize the server selection process and establish connection. By this rationale claim 1 is rejected.

As per claim 2, Pruett-Basso disclose *selecting an operational server from said functional group which has the highest available computational or CPU power* as an inherent feature of server selection [Pruett col 8 lines 5-10][see Choquier reference 5,774,668]. By this rationale claim 2 is rejected.

As per claims 3-5, Pruett-Basso disclose *a telephone switching system, ATM, TCP/IP* as the inherent features of WAN [Pruett col 3 lines 10-22]. By this rationale claims 3-5 are rejected.

As per claim 8, Pruett-Basso taught *a peer group leader module configured to cause the network to elect said system as a peer group leader* such as the network security database

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categorize a user as a network administration or a peer group leader [Pruett col 3 lines 10-22]. By this rationale claim 8 is rejected.

As per claims 6,14 and 22 contain the similar limitations set forth of method claim 1.

Therefore, claims 6,14 and 29 are rejected for the same rationale set forth claim 1.

As per claims 7,15,23 contain the similar limitations set forth of method claim 4.

Therefore, claims 7,15,23 are rejected for the same rationale set forth claim 4.

As per claim 9 contains the similar limitations set forth of method claim 2. Therefore, claim 9 is rejected for the same rationale set forth claim 2.

As per claims 11,20,28 contain the similar limitations set forth of method claim 3.

Therefore, claims 11,20,28 are rejected for the same rationale set forth claim 3.

As per claims 12,21,29 Pruett-Basso taught *each server responds to an ATM address for said function group* [Basso col 6 lines 8-32]. By this rationale claims 12,21,29 are rejected.

As per claims 13,16,24 contain the similar limitations set forth of method claim 5.

Therefore, claims 13,16,24 are rejected for the same rationale set forth claim 5.

As per claims 17,25 contain the similar limitations set forth of method claim 8. Therefore, claims 17,25 are rejected for the same rationale set forth claim 8.

As per claims 18,26 contain the similar limitations set forth of method claim 2. Therefore, claims 18,26 are rejected for the same rationale set forth claim 2.

As per claims 19,27 contain the similar limitations set forth of method claim 10. Therefore, claims 19,27 are rejected for the same rationale set forth claim 10.

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### ***Conclusion***

4. All claims are rejected.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643. The examiner can normally be reached on Monday-Thursday from 6:30AM- 4:00PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ahmad Matar*, can be reached on (703) 305-4731 or via e-mail addressed to [*Ahmad.Matar@uspto.gov*]. The fax number for this Group is (703) 308-6606 or 308-9731

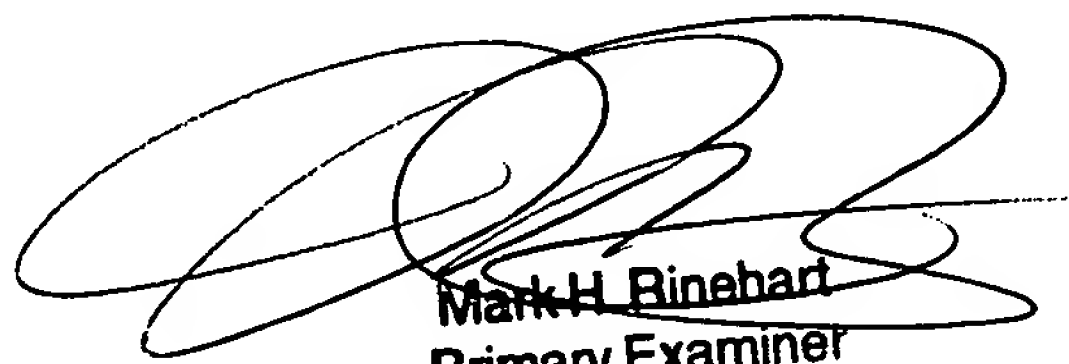
Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [*thong.vu@uspto.gov*].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

***Thong Vu***

***Apr 13, 2000***



**Mark H. Binehart**  
**Primary Examiner**